

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In re:	)	
	)	
Ways To Further Section 257 Mandate And	)	MB Docket 04-228
To Build On Earlier Studies	)	DA 04-1690

TO THE CHIEF, MEDIA BUREAU

**MOTION FOR EXTENSION OF TIME**

The Minority Media and Telecommunications Council (“MMTC”) respectfully moves for an extension of the comment and reply comment deadlines in this matter, as follows:

Current Schedule

Comments due July 22, 2004  
Reply Comments due August 6, 2004

Proposed Schedule

Comments due September 10, 2004  
Reply Comments due October 8, 2004

MMTC has sought this proceeding for years and is very familiar with the Section 257 Studies. However, the task assigned to the commenting parties will require considerably more time than the current schedule allows.

By way of background, Hogan & Hartson has graciously agreed to serve as pro bono counsel to assist MMTC in the preparation of its Comments. Further, MMTC expects to engage a consultant, Thomas J. Henderson. Mr. Henderson, formerly the Chief Counsel for the Lawyers Committee for Civil Rights Under Law, is an authority on post-Adarand strict scrutiny as applied to governmental programs.<sup>1/</sup>

---

<sup>1/</sup> At the January 10, 2004 public forum of the Financial Issues Subcommittee of the Advisory Committee on Diversity for Communications in the Digital Age (“Diversity Committee”), Mr. Henderson served as an invited expert. His presentation specifically addressed the Section 257 studies.

Mr. Henderson advises that he will need at least four or five weeks to thoroughly digest the Section 257 studies and other literature in the field and prepare his analysis, which will focus on the extent to which the studies would support a finding that one or more of the following is a compelling governmental interest with respect to either mass media or wireless services: (1) preventing discrimination; (2) promoting diversity (in the case of mass media); (3) promoting competition; or (4) remedying the present-day consequences of such past discrimination which the government may have facilitated. Mr. Henderson will also examine whether the studies provide a basis on which to address the narrow tailoring prong of strict scrutiny for any of several potentially race-conscious initiatives under consideration by the Diversity Committee. Throughout this time, the undersigned will assist Mr. Henderson in finding and digesting the FCC case law and lore, a responsibility that cannot be completely fulfilled until after July 20, the date on which the MMTC Annual Conference concludes.

Early in August, MMTC expects to circulate Mr. Henderson's conclusions among a number of colleagues in our industry to secure their comments and suggestions. This process will require two weeks. Finally, Hogan & Hartson will require approximately three weeks to adequately brief the matter.

Regrettably, since their publication in 2000, the Commission has not moved rapidly to seek the comments or otherwise acted on the Section 257 Studies; hence, the temptation to build a record at warp speed is understandable. Nonetheless, appropriate consideration of the studies, now that it is being undertaken, argues for allowing the modest additional time requested to allow for a thorough consideration of the record that has been developed. Armed with such a record, the Commission ultimately could produce a far more constitutionally rigorous decision than would be possible if the parties were required to produce their comments within the very short time span that presently applies. This careful approach would save time in the long run by tending to minimize the likelihood of multiple trips to the courthouse if race-conscious programs are adopted but thereafter challenged.

WHEREFORE, it is respectfully requested that this extension of time be granted.

Respectfully submitted,

David Honig  
Executive Director  
Minority Media and Telecommunications Council  
3636 16th Street N.W. #B-366  
Washington, D.C. 20010  
(202) 332-7005

July 2, 2004